THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 15468 of 2002

O r d e r:

The petitioner was appointed as Probationary Officer in Indian Overseas Bank in 1985. On the allegation that during his tenure at Chittoor, he granted Agri-Jewel Loan to his wife without proof of land-holding and jointly operated the account, a departmental enquiry was conducted. Based on the enquiry report, respondent No.3 in terms of Regulation 4(h) of Indian Overseas Bank Officer Employees Discipline and Appeal Regulations, 1976, vide order dated 30.10.2000, awarded punishment of compulsory retirement. Assailing the said order, the petitioner preferred appeal, which was dismissed by respondent No.2, vide order dated 29.03.2001. The review petition filed by the petitioner before respondent No.1, was also rejected, by reason of the order dated 16.05.2002, which is impugned in this writ petition.

The learned counsel for the petitioner submitted that inasmuch as in the grant of Agri-Jewel Loan to his wife, there is no monetary loss caused to the Bank, and inasmuch the granted loan was already repaid by his wife, the punishment of compulsory retirement imposed by respondent No.3 as confirmed by respondent Nos. 2 and 1, in appeal and review petition, is harsh and disproportionate to the misconduct alleged, and prayed that the impugned orders be set aside and the writ petition be allowed.

The learned Standing Counsel for the respondents-Bank submitted that the enquiry was conducted following the principles of natural justice. The charges leveled against the petitioner are serious in nature, which stood proved in the enquiry. He submitted that though the wife of the petitioner repaid the loan amount, but the petitioner having committed fraud and misappropriated the bank funds, the payments made subsequently, would not exonerate him of the charges. In fact, for the nature of charges proved, the petitioner should be dismissed from service, but the respondent No.3 has imposed punishment of compulsory retirement from service, which was rightly confirmed by respondent Nos. 2 and 1 in appeal and

review petition, and no interference is called for therewith. In support of his arguments, he placed reliance on the judgments of the apex Court in **Municipal Committee, Bahadurgarh v. Krishnan Behari** and **Ganesh Santa Ram Sirur v. State Bank of India**.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Bank.

It is the admitted case of the petitioner that he had granted Agri-Jewel Loan to his wife and operated the account jointly. Though the loan amount was repaid, it is the case of the respondents that the petitioner by granting Agri-Jewel Loan to his wife without there being land holding, had committed fraud and misappropriated the bank funds and had put the bank to wrongful loss and made wrongful gain for himself, and that the mere fact that the loan amount was repaid by the wife of the petitioner, would not exonerate him of the charges leveled against him, which are serious in nature. Though the wife of the petitioner repaid the loan amount, the fact remains, the charges framed against the petitioner, which are serious in nature, stood proved in the departmental enquiry. It is not the case of the petitioner that the departmental enquiry was not conducted in accordance with the principles of natural justice, and on the other hand, the affidavit of the petitioner discloses that every opportunity was given to the petitioner in the conduct of the enquiry.

Be that as it may, having regard to the plea of the petitioner that the loan amount having been repaid, it may be noticed whether the punishment of compulsory retirement imposed by respondents, can be justified. In **Ganesh Santa Ram Sirur v. State Bank of India**, the appellant therein had sanctioned loan to his wife contrary to the scheme. A defence was raised, namely that no loss or profit resulted in the case and that draft of loan though was issued, was not encashed. Negativing such defence, the apex Court held as follows:

> The Branch Manager of a Bank is required to exercise higher standards of honesty and integrity when he deals with the money of the depositors and thecustomers and, therefore, he is required to take all possible steps to protect the interest of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of the bank officer. Good conduct and discipline are inseparable for the functioning of every officer, Manager or employee of the Bank, who deals with public money and there is no defence available to say that there was no loss or profit result in the case, when the Manager acted without authority and contrary to the rules and the scheme.

Though the loan amount was repaid, but inasmuch as the allegations of

cheques having been purchased unauthorizedly and proceeds credited on two occasions, unauthorized transfer of amount and making fictious entries, are made against the petitioner, which stood proved in the departmental enquiry, no exception can be taken to the order passed by respondent No.3 imposing punishment of compulsory retirement from service, as confirmed by respondent No.2 and 1 in appeal and review petition respectively, and more so when it is the specific case of the respondents that for the nature of charges proved, the punishment of dismissal should be imposed. In **Municipal Committee, Bahadurgarh v. Krishnan Behari**, the apex Court held that quantum of amount misappropriated not relevant, but misconduct is relevant for imposing punishment. In **V. Ramana v. A.P.S.R.T.C.**, the apex Court held that punishment imposed by the disciplinary authority, can be interfered only when the administrator's decision is found to be illogical or suffers from procedural impropriety or was shocking to the conscience of the Court or is defiance to the moral standards. The petitioner was unable to point out any infirmity in the decision arrived at by respondent No.3, imposing punishment of compulsory retirement from service, which was confirmed by respondents Nos. 2 and 1, warranting interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 13th April, 2006.

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